

City of Miami Beach - City Commission Workshop
Miami Beach Convention Center
1700 Convention Center Drive
July 7, 2003

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Mayor David Dermer	Present
Vice-Mayor Matti Herrera Bower	Present
Commissioner Simon Cruz	In at 2:42 p.m.
Commissioner Luis R. Garcia, Jr.	In at 2:48 p.m.
Commissioner Saul Gross	Present
Commissioner Jose Smith	Absent
Commissioner Richard L. Steinberg	Present

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

City Commission Workshop
Hotels/Open air entertainment

Times based on the digital recording in the City Clerk's Conference Room.

Meeting called to order at 2:18:46 p.m.

Mayor Dermer stated that he was impressed with the public attendance at this Workshop. He stated that it is important to get as much public feedback as possible.

Jorge Gonzalez, City Manager, explained the origin of this meeting is the result of the dialogue occurring in the community over the past several months regarding the noise ordinance, the City's enforcement of the ordinance, and who the ordinance applies too. He stated that the City Commission recently adopted an ordinance relating to new establishments south of 5th Street. During that dialogue the City Manager and staff met with hoteliers in the industry to discuss the issues. On May 8, 2003 a meeting was held among the industry in which some of the Commissioners, including Commissioner Garcia, were present to discuss how the noise ordinance affects them and their businesses and the difficulties they are facing. From that meeting a request was made at the May 21st Commission Meeting to establish a workshop to discuss fully. This meeting took place primarily among industry representatives and business owners as well as residents affected by noise in this community. This has become a quality of life issue. Staff will explain what law is in place now, how the City is enforcing it, and implementing it. There is no legislation currently pending before the City Commission with respect to this issue.

Mayor Dermer stated that this is a Workshop and no vote will take place today. The reason for this Workshop is to obtain citizens input. Mayor Dermer announced to the public that Commissioner Smith will not be attending the Workshop due to pressing matters.

Al Childress, Director of Code Compliance, explained Chapter Sec. 21-28 of the Miami-Dade County Code. Currently the City has a night shift that responds to complaints coming through non-emergency numbers. On weekends and after-hours the citizens are asked to call 305-673-7900 and Code Compliance officers will be dispatched to location. Concerning the City's enforcement policy, the department is proposing a policy that in (3) three notices occurring in a 90-day period, cases would be referred to the Special Master for adjudication, guilt and a fine imposed. A fourth (4) violation within the 90-day period after the Special Master Hearing would result in hearings before the Special Master for suspension or revocation of their Occupational License. A fifth (5) violation during the 90-day period would result in immediate suspension of the Occupational License by the City Manager, and the License will remain suspended until a hearing before the Special Master. Seven days after the first violation, the Police Department would be notified to take appropriate action, since under Sec. 21-28 this is considered a criminal violation.

Richard Lorber, Planning and Zoning Manager, read and explained the City Code's definition of "entertainment." He also explained the process of obtaining a conditional use permit.

Mayor Dermer announced that Commissioner Garcia and Commissioner Cruz were delayed due to personal matters.

Maggie Fernandez from Arts, Culture and Entertainment Division, explained the special events permit requirements.

Stuart Blumberg spoke.

Frank Del Vecchio spoke.

Gary Knight spoke.

Frank Florentino, President of the 1500 Ocean Drive Condominium Association, spoke and showed a videotape.

Barbara K. Bisno, President of the Venetian Causeway Neighborhood Alliance, spoke.

Erika Brigham, owner of hotel at 1411 Collins Avenue, spoke.

John Charles, Vice-President of the North Ocean Drive Area Residents Association, spoke.

David Haber, representing Portofino Tower Condominium Association, spoke.

Juan Covian, Portofino South Point Tower, spoke.

Jeff Donnelly spoke.

Clotilde Luce spoke.

Jo Manning, President the Drake Condominium Association 1460 Ocean Drive, spoke.

Howard Schneider spoke.

Marta Sardone spoke.

Josh Fisher spoke.

Tirso Carreja spoke.

Ann Marshall, Imperial House Condominium Board of Director, 5255 Collins Avenue, spoke.

Stuart Reed spoke.

Victor Diaz, Planning Board member, talked about the special permit process, and stated that hotels along the beach are not uniform and to try to establish uniform rules is probably not the best planning approach to the problem. There should be a process that looks at the issues on a case-by-case basis with detail and careful criteria. He stated the he believes the existing rules work. The problem the Planning Board has seen is when individuals try to convert the outdoor venues into regular entertainment establishments.

Wolf Erdmann spoke.

David Goldman spoke.

Milton Montalvo spoke.

Stanley Shapiro spoke.

Mel Kimmel asked questions regarding Code Enforcement. How they work to enforce noise regulations? Are there enough code enforcement officers? How are they called out to enforce the noise regulations? Does it require a complaint from the public? What is the timeframe in enforcing a violation? Does a code officer go out with a witness? What is the percent increase by the enforcers?

Jose Santana spoke.

Mattie Snyder spoke.

Ken Koehn spoke.

Joseph Villari spoke.

David Wallack spoke.

Lisa Sanders spoke.

Meredith Morgan spoke.

Ruth Remington spoke.

Briana Swanson spoke.

Tushar Patel spoke.

Sidney Goldin spoke.

Morris Sunshine spoke.

Eugene Woodard spoke.

Jose Cordero spoke.

David Kelsey spoke.

Randie Hofer spoke.

Christina LaBuzetta spoke.

Judith Berson-Levinson, owner and manager of the Edison Hotel on 10th and Ocean Drive, and the Royal Hotel 8th and Washington Avenue, spoke.

Commissioner Steinberg stated that the City Commission understands its citizens and this was demonstrated when the Commission recently passed a resolution which was transmitted to the County Commission opposing any weakening of the County's noise ordinance. He explained that the County ordinance gives the City the power to balance the needs of the industry and the needs of the neighbors. The City is doing what it can to protect the rights of the citizens, and to make sure that the industry is able to operate as long as they do not disturb the neighbors. The City must enforce the Miami-Dade County ordinance.

Commissioner Gross stated that the biggest problem is the enforcement of the noise ordinance because it is very difficult and frustrating for the citizens to have their voices heard. He agrees that there should not be nightclubs at pools near residential districts and challenged the Administration and the Planning Board to come up with ways to prohibit that.

Jorge Gomez, Planning Director, stated that outdoor activities would trigger the conditional use review process. He stated that only a couple of large oceanfront hotels have applied for a conditional use permit. He also explained that the most important tool is how to deal with the repeat violators. The Administration has begun to craft this process for the Commission in dealing with repeat violators in the future. The conditional use process does not allow the County noise ordinance to be violated.

Commissioner Gross stated that the fundamental question is, is the conditional use process an effective process or is the City better off developing a uniform set of guidelines within certain zoning districts so the businesses, Code Compliance and the residents would know if the guidelines are being followed?

Jorge Gonzalez, City Manager, stated that this is a policy question.

Mayor Dermer stated that the challenge is when commercial and residential areas overlap.

Commissioner Cruz stated that appeals of Planning Board decisions used to come to the City Commission but was changed to being handled by the circuit court. He is bringing an ordinance to the City Commission that will change the Planning Board appeal process so that appeals will come to the City Commission instead of the Court.

Commissioner Gross stated that the pending conditional use permits should be analyzed in order to come up with guidelines for the different areas which could replace the conditional use permit process. **Jorge Gomez to handle.**

Commissioner Bower asked why the City is not enforcing the noise ordinance that is in the Code at the present time.

Mayor Dermer summarized that the issue is narrow and it's in the overlapping areas of the City. The City should address guidelines as well and there has to be more vigorous enforcement. Mayor Dermer added that the need of the residents do come first in the end. He stated that the resort taxes in February and March were some of the highest numbers in the City's history. He stated that the City's bond rating has increased twice in 2003 and this is due to a combination of factors. Resort taxes are paid not just by tourists, but also by residents. He requested Jorge Gomez, Planning Director, to do a survey by looking at coastal communities and places that have a vibrant nightlife and to look at the overlapping districts. **Jorge Gomez to handle.**

Jorge Gonzalez, City Manager, stated that what has prompted the industry to seek this discussion is the fact that the City is going out and enforcing the noise ordinance and the business owners would like some certainty to know if they can book events. Discussion continued.

Commissioner Gross stated the issues to be referred to the Planning Board and then to the Land Use and Development Committee are:

- 1) Amplified vs. non amplified music;
- 2) Hours of operations,
- 3) Should the conditional use process in certain districts be replaced with specific guidelines?
- 4) Nightclubs in the pool areas not be permitted in residential areas
- 5) Guidelines for repeat violators. **Jorge Gomez to handle.**

Commissioner Gross stated that there were a set of guidelines established in committee and there was going to be a workshop on those guidelines. The workshop was cancelled to hold today's workshop.

Mayor Dermer asked what is the Administration enforcing today.

Al Childress, Code Compliance Director, stated that repeat violators are being taken to the Special Master seeking fines and adjunction, and guilt. And if a business is continually violating the City Code, under the City Manager's powers, the Administration can immediately seek revocation of the license.

7. Miami Beach E-Briefs weekly e-newsletter, dated July 4, 2003.
8. Email from Frank Del Vecchio to Robert Parcher, City Clerk dated July 2, 2003 re: Objection to Postponement of July 7 Commission Meeting on Outdoor Entertainment with attached letter to the Mayor and Commissioners dated July 1, 2003.
9. Flyer asking for no reduction in noise safeguards, making mandatory the Planning Board criterion for rejecting outdoor entertainment application – “proximity to residential” and assign police officers the responsibility for responding to noise complaints.
10. Email from Frank Del Vecchio to Mayor and Commissioners, dated July 3, 2003, RE: Demand for equal time for residents to be heard: Cumulatively and in sequence. July 7 meeting on outdoor entertainment/noise